United States Patent and Trademark Office

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/429,406	10/26/1999	JAMES M. BROWN	QCPA9900029	5890

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EXAMINER
WILSON, ROBERT W

ART UNIT	PAPER NUMBER
2616	

DATE MAILED: 08/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Office Action Summary	**Application No.**	**Applicant(s)**
		09/429,406	BROWN ET AL.
		Examiner	**Art Unit**
		Robert W. Wilson	2616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>27 June 2006</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>2,4,5 and 12-14</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>2,4,5 and 12-14</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

        1.☐ Certified copies of the priority documents have been received.

        2.☐ Certified copies of the priority documents have been received in Application No. _____.

        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

Claim Rejections - 35 USC § 102

1.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2.   Claims 2, 4, 12 & 14 are rejected under 35 U.S.C. 102(e) as being anticipated by

Meyer (U.S. Patent No.: 6,700,902).

Referring to claim 2, Meyer teaches: A method for transmitting time-sensitive information over a wireless voice-over-data communication system, used in conjunction with a predefined data protocol (Figure 8 shows the method of transmitting in element 130) time sensitive information (string of data or 65A per Figure 5) over a wireless voice-over data communication system (col. 7 lines 24-25) in conjunction with a predefined protocol (protocols per col. 9 lines 33-46), comprising:

defining a minimum segment size for information to be transmitted (the minimum packet or minimum segment size per col. 9 line 57-col. 10 line 35);

defining a maximum segment size for information to be transmitted (a maximum packet size or segment size to be transmitted per col. 9 line 57-col. 10 line 35), said maximum segment size being greater than said minimum segment size (The size of the packet or segment is between a minimum and maximum per col. 9 line 57-col. 10 line 35) wherein said maximum segment size is negotiated between a transmitter and receiver (The transmitter/receiver 10 or transmitter and the transmitter/receiver 20 or receiver per col. 9 line 57-col. 10 line 35 negotiate the maximum packet size per Figure 8)

generating a first segment from said time-sensitive information if a sufficient quantity of said time-sensitive information is available for transmission, said first segment having a segment size between said minimum segment size and said maximum segment size (A first packet is created from the string of data or time-sensitive information per Figure 5 the first packet size is between the minimum and maximum packet size per col. 9 line 57-col. 10 line 35)

and generating a second segment having a segment size less than or equal to said maximum segment size upon the receipt of an acknowledgment message from said receiver (A second segment is generated from the string of data per Figure 5 which is less than or equal to the maximum packet size upon an acknowledgment message from the transmitter/receiver or 20 per col. 9 line 57-col. 10 line 35 based upon ACK message from receiver per 110, 115, 120, 125, 130, 133, 135, 138, & 140 per Figure 8)

Referring to claim 4, Meyer teaches: An apparatus (transmitter/receiver 20 per Figure 4 or transmitter) for transmitting time-sensitive information (string of data or 65A per Figure 5) over a wireless voice-over data communication system (col. 7 lines 24-25) in conjunction with a predefined protocol (protocols per col. 9 lines 33-46), comprising:

means for negotiating a maximum segment size with a receiver (23 per Figure 4 is the means for negotiating maximum segment size with a receiver per Figure 8);

memory for storing the maximum segment size (24 per Figure 4 is the memory for storing maximum packet size or segment size per col. 13 lines 12-20) ;

a queue for storing data frames, said data frames representing time-sensitive information (24 per Figure 4 is capable of storing string of data or data frames representing time-sensitive information per Figure 5) and

a first processor for generating a first segment from said time-sensitive information if a sufficient quantity of said time-sensitive information is available for transmission (23 per Figure 4 or first processor generates a first packet containing string of data or time sensitive information if the size of the packet is greater than the minimum packet size per col. 9 line 57-col. 10 line 35), said first segment having a segment size between said minimum segment size and said maximum segment size (The size of the packet or segment is between a minimum and maximum size of packet per col. 9 line 57-col. 10 line 35);

and generating a second segment having a segment size less than or equal to said maximum segment size upon the receipt of an acknowledgment message from said receiver (A second packet size or second segment is generated from the string of data per Figure 5 which is less than or equal to the maximum packet size upon an acknowledgment message from the transmitter/receiver or 20 per col. 9 line 57-col. 10 line 35 based upon ACK message from receiver per 110, 115, 120, 125, 130, 133, 135, 138, & 140 per Figure 8).

Referring to claim 12, Meyer teaches: A method for transmitting time-sensitive information over a wireless voice-over-data communication system, used in conjunction with a predefined data protocol (Figure 9 shows the method of transmitting (130 per Figure 9) time sensitive information (string of data or 65A per Figure 5) over a wireless

voice-over data communication system (col. 7 lines 24-25) in conjunction with a predefined protocol (protocols per col. 9 lines 33-46), comprising

defining a minimum segment size for information to be transmitted (the minimum packet or minimum segment size per col. 9 line 57-col. 10 line 35);

defining a maximum segment size for information to be transmitted, said maximum segment size being greater than said minimum segment size (The maximum packet size or maximum segment size per col. 9 line 57-col. 10 line 35)

generating a first segment from said time-sensitive information if a sufficient quantity of said time-sensitive information is available for transmission, said first segment having a segment size between said minimum segment size and said maximum segment size (A first packet is created from the string of data or time-sensitive information per Figure 5 the first packet size is between the minimum and maximum packet size per col. 9 line 57-col. 10 line 35); and

and generating a second segment having a segment size less than or equal to said maximum segment size upon the receipt of an acknowledgment message from said receiver (A second packet size or second segment is generated from the string of data per Figure 5 which is less than or equal to the maximum packet size upon an acknowledgment message from the transmitter/receiver or 20 per col. 9 line 57-col. 10 line 35 based upon ACK message from receiver per 110, 115, 120, 125, 130, 133, 135, 138, & 140 per Figure 8).

Referring to claim 14, Meyer teaches: An apparatus (transmitter/receiver 20 per Figure 4 or transmitter) for transmitting time-sensitive information (string of data or 65A per Figure 5) over a wireless voice-over data communication system (col. 7 lines 24-25) in conjunction with a predefined protocol (protocols per col. 9 lines 33-46), comprising:

means for defining a minimum segment size for information to be transmitted (23 per Figure 4 is capable of being the means for defining a minimum packet size or minimum segment size per col. 9 line 57-col. 10 line 35);

means for defining a maximum segment size for information to be transmitted (23 per Figure 4 is capable of being the means for defining maximum packet size or segment size to be transmitted per Figure 8); said maximum segment size being greater than said minimum segment size (The packet size or maximum segment size is between a minimum and maximum packet size per col. 9 line 57-col. 10 line 35)

means for generating a first segment from said time-sensitive information if a sufficient quantity of said time-sensitive information is available for transmission (23 per Figure 4 is capable of being the means for generating a first packet containing string of data or

time sensitive information if the size of the segment is greater than the minimum packet size per col. 9 line 57-col. 10 line 35), said first segment having a segment size between said minimum segment size and said maximum segment size (The size of the packet or segment size is between a minimum and maximum packet size per col. 9 line 57-col. 10 line 35);

means for generating a second segment having a segment size less than or equal to said maximum segment size upon the receipt of an acknowledgment message from said receiver (23 per Figure 4 or means for generating a second packet size or second segment is generated from the string of data per Figure 5 which is less than or equal to the maximum packet size upon an acknowledgment message from the transmitter/receiver or 20 per col. 9 line 57-col. 10 line 35 based upon ACK message from receiver per 110, 115, 120, 125, 130, 133, 135, 138, & 140 per Figure 8).

Claim Rejections - 35 USC § 103

3.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4.   Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Meyer

(U.S. Patent No.: 6,434,140) in view of Barany (U.S. Patent No.: 6,434,140).

Referring to claim 5, Meyer teaches: the apparatus of claim 4

Meyer does not expressly call for: further comprising a vocoder for generating data frames from said time sensitive information.

Barany teaches: vocoder which generates packet switched data from voice or a vocoder for generating data frames from said time sensitive information per col. 4 lines 32-39.

It would have been obvious to one of ordinary skill in the art at the time of the invention to add the vocoder of Barany to the mobile of Meyer in order to convert voice into packet data which would be in compliance with the GPRS-136 standard.

5.	Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Meyer

(U.S. Patent No.: 6,434,140).

Referring to claim 13, it is within the level of one skilled in the art at the time of the
invention to implement the method claim of claim 12 in program instructions which are
executable on a processor. It would have been obvious to one of ordinary skill in the art
at the time of the invention to store the instructions on a computer readable medium in
order for the instructions to be executable on a processor.

Claim Rejections - 35 USC § 101

6.	35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or
any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and
requirements of this title.

Claim 13 is rejected under 35 U.S.C. 101 because the claimed invention is directed to

non-statutory subject matter.

Claim 13 is directed to software on a computer readable medium. Software is not

patentable because it is not a method, process, composition of matter, or article of

manufacture. Computer instructions encoded on a computer readable medium that are

executable by a processor that define a tangible outcome or perform a physical

transformation are patentable.
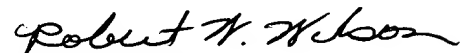
Response to Amendment

7.	Applicant's arguments with respect to claims 2, 4,5, 12-14 have been considered

but are moot in view of the new ground(s) of rejection.

Conclusion

8.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert W. Wilson whose telephone number is 571/272-3075. The examiner can normally be reached on M-F (8:00-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Doris To can be reached on 571/272-7629. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Robert W Wilson
Examiner
Art Unit 2616

RWW
8/9/06